

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**MICHAEL DANG**  
**a.k.a. TRI MINH DANG**  
**4031 E. Saginaw Way**  
**Fresno, CA 93726**

**Registered Nurse License No. 654390**  
**Public Health Nurse Certificate No. 68732**

Respondent

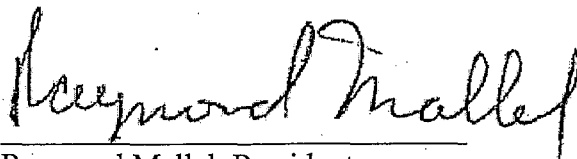
Case No. 2013-40

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 20, 2012.**

IT IS SO ORDERED **November 20, 2012.**



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE LACHMAN  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-40

12 **MICHAEL DANG A.K.A. TRI MINH**  
13 **DANG**  
14 **4031 E. Saginaw Way**  
**Fresno, CA 93726**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

15 **Registered Nurse License No. 654390**  
16 **Public Health Nurse Certificate No. 68732**

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
23 Registered Nursing. She brought this action solely in her official capacity and is represented in  
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Sterling A.  
25 Smith, Deputy Attorney General.

26 2. Respondent Michael Dang a.k.a. Tri Minh Dang (Respondent) is representing himself  
27 in this proceeding and has chosen not to exercise his right to be represented by counsel.  
28

3. On or about March 14, 2005, the Board of Registered Nursing issued Registered Nurse License No. 654390 to Michael Dang a.k.a. Tri Minh Dang (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2013-40 and will expire on June 30, 2014, unless renewed.

4. On or about March 23, 2005, the Board of Registered Nursing issued Public Health Nurse Certificate No. 68732 to Michael Dang a.k.a. Tri Minh Dang (Respondent). The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 2013-40 and will expire on June 30, 2014, unless renewed.

## JURISDICTION

5. Accusation No. 2013-40 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 13, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2013-40 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2013-40. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 2013-40.

4 10. Respondent agrees that his Registered Nurse License and Public Health Nurse  
5 Certificate are subject to discipline and he agrees to be bound by the Board's probationary terms  
6 as set forth in the Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Board of Registered Nursing.  
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
10 Registered Nursing may communicate directly with the Board regarding this stipulation and  
11 settlement, without notice to or participation by Respondent. By signing the stipulation,  
12 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the  
13 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this  
14 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of  
15 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
16 the parties, and the Board shall not be disqualified from further action by having considered this  
17 matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated Settlement  
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
20 effect as the originals.

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
26 writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 654390 and Public Health Nurse Certificate No. 68732 to Respondent Michael Dang a.k.a Tri Minh Dang is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

**Severability Clause.** Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

**Criminal Court Orders:** If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

1       Upon successful completion of probation, Respondent's license shall be fully restored.

2       3.   **Report in Person.** Respondent, during the period of probation, shall appear in  
3   person at interviews/meetings as directed by the Board or its designated representatives.

4       4.   **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
5   practice as a registered nurse outside of California shall not apply toward a reduction of this  
6   probation time period. Respondent's probation is tolled, if and when he resides outside of  
7   California. Respondent must provide written notice to the Board within 15 days of any change of  
8   residency or practice outside the state, and within 30 days prior to re-establishing residency or  
9   returning to practice in this state.

10       Respondent shall provide a list of all states and territories where he has ever been licensed  
11   as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
12   information regarding the status of each license and any changes in such license status during the  
13   term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
14   license during the term of probation.

15       5.   **Submit Written Reports.** Respondent, during the period of probation, shall submit  
16   or cause to be submitted such written reports/declarations and verification of actions under  
17   penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
18   relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
19   Respondent shall immediately execute all release of information forms as may be required by the  
20   Board or its representatives.

21       Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
22   state and territory in which he has a registered nurse license.

23       6.   **Function as a Registered Nurse.** Respondent, during the period of probation, shall  
24   engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
25   6 consecutive months or as determined by the Board.

26       For purposes of compliance with the section, "engage in the practice of registered nursing"  
27   may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
28   non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice nursing  
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and  
4 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
6 extension of Respondent's probation period up to one year without further hearing in order to  
7 comply with this condition. During the one year extension, all original conditions of probation  
8 shall apply.

9 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
10 prior approval from the Board before commencing or continuing any employment, paid or  
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
12 performance evaluations and other employment related reports as a registered nurse upon request  
13 of the Board.

14 Respondent shall provide a copy of this Decision to his employer and immediate  
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two  
17 (72) hours after he obtains any nursing or other health care related employment. Respondent  
18 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
19 regardless of cause, from any nursing, or other health care related employment with a full  
20 explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding  
22 Respondent's level of supervision and/or collaboration before commencing or continuing any  
23 employment as a registered nurse, or education and training that includes patient care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good  
25 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
26 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
27 approved.

28 ///

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

**9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

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Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1,465.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. **Violation of Probation.** If Respondent violates the conditions of his probation, then the Board, after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary

1 period shall automatically be extended and shall not expire until the accusation or petition has  
2 been acted upon by the Board.

3       **13. License Surrender.** During Respondent's term of probation, if he ceases practicing  
4 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
5 Respondent may surrender his license to the Board. The Board reserves the right to evaluate  
6 Respondent's request and to exercise its discretion whether to grant the request, or to take any  
7 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
8 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
9 subject to the conditions of probation.

10       Surrender of Respondent's license shall be considered a disciplinary action and shall  
11 become a part of Respondent's license history with the Board. A registered nurse whose license  
12 has been surrendered may petition the Board for reinstatement no sooner than the following  
13 minimum periods from the effective date of the disciplinary decision:

14       (1) Two years for reinstatement of a license that was surrendered for any reason other  
15 than a mental or physical illness; or

16       (2) One year for a license surrendered for a mental or physical illness.

17       **14. Physical Examination.** Within 45 days of the effective date of this Decision,  
18 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician  
19 assistant, who is approved by the Board before the assessment is performed, submit an  
20 assessment of the Respondent's physical condition and capability to perform the duties of a  
21 registered nurse, including a determination as set forth below in the condition titled "Rule-Out  
22 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to  
23 the Board. If medically determined, a recommended treatment program will be instituted and  
24 followed by the Respondent with the physician, nurse practitioner, or physician assistant  
25 providing written reports to the Board on forms provided by the Board.

26       If Respondent is determined to be unable to practice safely as a registered nurse, the  
27 licensed physician, nurse practitioner, or physician assistant making this determination shall  
28 immediately notify the Board and Respondent by telephone, and the Board shall request that the

1 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
2 immediately cease practice and shall not resume practice until notified by the Board. During this  
3 period of suspension, Respondent shall not engage in any practice for which a license issued by  
4 the Board is required until the Board has notified Respondent that a medical determination  
5 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
6 of this probationary time period.

7 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
8 requirement, Respondent shall immediately cease practice and shall not resume practice until  
9 notified by the Board. This period of suspension will not apply to the reduction of this  
10 probationary time period. The Board may waive or postpone this suspension only if significant,  
11 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
12 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
13 Only one such waiver or extension may be permitted.

14 15. **Mental Health Examination.** Respondent shall, within 45 days of the effective date  
15 of this Decision, have a mental health examination including psychological testing as appropriate  
16 to determine her capability to perform the duties of a registered nurse, including a determination  
17 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The  
18 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
19 practitioner approved by the Board. The examining mental health practitioner will submit a  
20 written report of that assessment and recommendations to the Board. All costs are the  
21 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
22 result of the mental health examination will be instituted and followed by Respondent.

23 If Respondent is determined to be unable to practice safely as a registered nurse, the  
24 licensed mental health care practitioner making this determination shall immediately notify the  
25 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
26 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
27 practice and may not resume practice until notified by the Board. During this period of  
28 suspension, Respondent shall not engage in any practice for which a license issued by the Board

1 is required, until the Board has notified Respondent that a mental health determination permits  
2 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
3 probationary time period.

4 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
5 requirement, Respondent shall immediately cease practice and shall not resume practice until  
6 notified by the Board. This period of suspension will not apply to the reduction of this  
7 probationary time period. The Board may waive or postpone this suspension only if significant,  
8 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
9 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
10 Only one such waiver or extension may be permitted.

11 16. **Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical  
12 and/or mental health examination determines that the Respondent is dependent upon drugs or  
13 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol  
14 dependence in remission), that might reasonably affect the safe practice of nursing, then the  
15 Respondent must further comply with the following additional terms and conditions of  
16 probation:

17 a. **Participate in Treatment/Rehabilitation Program for Chemical Dependence.**  
18 Respondent, at her expense, shall successfully complete during the probationary period or shall  
19 have successfully completed prior to commencement of probation a Board-approved treatment  
20 and/or rehabilitation program of at least six (6) months duration. As required, reports shall be  
21 submitted by the program on forms provided by the Board. If Respondent has not completed a  
22 Board-approved treatment/rehabilitation program prior to commencement of probation, then  
23 Respondent, within forty-five (45) days from the effective date of the decision, shall be enrolled  
24 in a program. If a program is not successfully completed within the first nine months of  
25 probation, the Board shall consider Respondent in violation of probation.

26 Based on Board recommendation, each week Respondent shall be required to attend at  
27 least one (1), but no more than five (5) 12-step recovery meetings or equivalent (e.g., Narcotics  
28 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by

1 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent  
2 shall be added. Respondent shall submit dated and signed documentation confirming such  
3 attendance to the Board during the entire period of probation. Respondent shall continue with the  
4 recovery plan recommended by the treatment and/or rehabilitation program or a licensed mental  
5 health examiner and/or other ongoing recovery groups.

6       **b. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall  
7 completely abstain from the possession, injection or consumption by any route of all controlled  
8 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same  
9 are ordered by a health care professional legally authorized to do so as part of documented  
10 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)  
11 days, by the prescribing health professional, a report identifying the medication, dosage, the  
12 date the medication was prescribed, the Respondent's prognosis, the date the medication will no  
13 longer be required, and the effect on the recovery plan, if appropriate.

14       Respondent shall identify for the Board a single physician, nurse practitioner, or physician  
15 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and  
16 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-  
17 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
18 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances  
19 considered addictive have been prescribed, the report shall identify a program for the time  
20 limited use of any such substances.

21       The Board may require the single coordinating physician, nurse practitioner, or physician  
22 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive  
23 medicine.

24       **c. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a  
25 random, biological fluid testing or a drug screening program which the Board approves. The  
26 length of time and frequency will be subject to approval by the Board. Respondent is  
27 responsible for keeping the Board informed of Respondent's current telephone number at all  
28 times. Respondent shall also ensure that messages may be left at the telephone number when

1 she is not available and ensure that reports are submitted directly by the testing agency to the  
2 Board, as directed. Any confirmed positive finding shall be reported immediately to the Board  
3 by the program and Respondent shall be considered in violation of probation.

4 In addition, Respondent, at any time during the period of probation, shall fully cooperate  
5 with the Board or any of its representatives, and shall, when requested, submit to such tests and  
6 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
7 hypnotics, dangerous drugs, or other controlled substances.

8 If Respondent has a positive drug screen for any substance not legally authorized and not  
9 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
10 files a petition to revoke probation or an accusation, the Board may suspend Respondent from  
11 practice pending the final decision on the petition to revoke probation or the accusation. This  
12 period of suspension will not apply to the reduction of this probationary time period.

13 If Respondent fails to participate in a random, biological fluid testing or drug screening  
14 program within the specified time frame, Respondent shall immediately cease practice and shall  
15 not resume practice until notified by the Board. After taking into account documented evidence  
16 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
17 suspend Respondent from practice pending the final decision on the petition to revoke probation  
18 or the accusation. This period of suspension will not apply to the reduction of this probationary  
19 time period.

20 d. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in  
21 an on-going counseling program until such time as the Board releases her from this requirement  
22 and only upon the recommendation of the counselor. Written progress reports from the  
23 counselor will be required at various intervals.

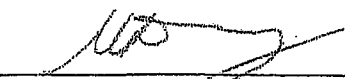
#### 24 ACCEPTANCE

25 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
26 stipulation and the effect it will have on my Registered Nurse License and Public Health Nurse  
27 Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,  
28

1 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of  
2 Registered Nursing.

3  
4 DATED:

9/06/2012

  
MICHAEL DANG aka TRI MINH DANG  
Respondent

7 ENDORSEMENT

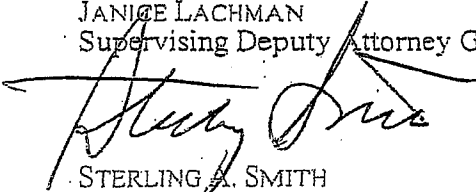
8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
9 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
10 Affairs.

11 Dated:

9/6/2012

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JANICE LACHMAN  
Supervising Deputy Attorney General

  
STERLING A. SMITH  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 2013-40**



1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
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Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
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10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-40**

13 **MICHAEL DANG,**  
14 **aka TRI MINH DANG**  
15 **4031 E. Saginaw Way**  
16 **Fresno, CA 93726**

**A C C U S A T I O N**

17 **Registered Nurse License No. 654390**  
18 **Public Health Nurse Certificate No. 68732**

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),  
24 Department of Consumer Affairs.

25 2. On or about March 14, 2005, the Board issued Registered Nurse License Number  
26 654390 to Michael Dang, also known as Tri Minh Dang ("Respondent"). Respondent's registered  
27 nurse license was in full force and effect at all times relevant to the charges brought herein and  
28 will expire on June 30, 2014, unless renewed.

3. On or about March 23, 2005, the Board issued Public Health Nurse Certificate  
Number 68732 to Respondent. Respondent's public health nurse certificate was in full force and

1 effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless  
2 renewed.

### 3 STATUTORY PROVISIONS

4 4. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
5 the Board may discipline any licensee, including a licensee holding a temporary or an inactive  
6 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
7 Practice Act.

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed  
10 nurse or deny an application for a certificate or license for any of the following:

11 (a) Unprofessional conduct . . .

12 . . . .

13 (f) Conviction of a felony or of any offense substantially related to the  
14 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof . . .

15 6. Code section 2762 states, in pertinent part:

16 In addition to other acts constituting unprofessional conduct within the  
17 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
18 person licensed under this chapter to do any of the following:

19 . . . .

20 (b) Use any controlled substance as defined in Division 10 (commencing  
21 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
22 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety to  
the public the practice authorized by his or her license.

23 (c) Be convicted of a criminal offense involving the prescription,  
24 consumption, or self administration of any of the substances described in subdivisions  
25 (a) and (b) of this section, or the possession of, or falsification of a record pertaining  
to, the substances described in subdivision (a) of this section, in which event the  
record of the conviction is conclusive evidence thereof . . .

26 7. Code section 2765 states:

27 A plea or verdict of guilty or a conviction following a plea of nolo  
28 contendere made to a charge substantially related to the qualifications, functions and  
duties of a registered nurse is deemed to be a conviction within the meaning of this

1 article. The board may order the license or certificate suspended or revoked, or may  
2 decline to issue a license or certificate, when the time for appeal has elapsed, or the  
3 judgment of conviction has been affirmed on appeal or when an order granting  
4 probation is made suspending the imposition of sentence, irrespective of a subsequent  
5 order under the provisions of Section 1203.4 of the Penal Code allowing such person  
6 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
7 the verdict of guilty, or dismissing the accusation, information or indictment.

### 8 COST RECOVERY

9 8. Code section 125.3 provides, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licensee found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case.

### 13 FIRST CAUSE FOR DISCIPLINE

#### 14 (Criminal Conviction)

15 9. Respondent is subject to disciplinary action pursuant to Code section 2761,  
16 subdivision (f), in that on or about October 11, 2011, in the criminal proceeding titled "People v.  
17 Michael Dang aka Tri Minh Dang", Fresno County Superior Court, Case No. M11915690,  
18 Respondent pled nolo contendere to violating Vehicle Code section 23152, subdivision (b)  
19 (driving with a 0.08 percent or higher blood alcohol level), a misdemeanor, a crime substantially  
20 related to the qualifications, functions, and duties of a registered nurse. Respondent also  
21 stipulated that his blood alcohol level was 0.14 percent at the time of the incident described  
22 below. The imposition of Respondent's sentence was suspended and Respondent was placed on  
23 probation for 3 years on terms and conditions. The circumstances of the crime are as follows: On  
24 or about March 27, 2011, at 0315 hours, an officer with the Clovis Police Department ("CPD")  
25 arrived at the scene of a collision.<sup>1</sup> The officer was informed by other witnesses that they had  
26 detained Respondent because he was attempting to flee the scene. The officer spoke with  
27 Respondent and noted that he had a strong odor of an alcoholic beverage emitting from his breath

28  
<sup>1</sup> Respondent was driving his vehicle on SR-168 westbound to Ashlan Avenue and allowed  
the vehicle to unsafely travel off the roadway near the west roadway edge of the westbound SR-  
168 Ashlan Avenue off ramp. Respondent traveled onto the dirt shoulder and hit a roadway sign.  
Upon impact, the vehicle continued in a south westerly direction and collided with a traffic light.

1 and person, and that his gait was extremely unsteady. The officer placed Respondent in the rear  
2 of his patrol car until the California Highway Patrol ("CHP") arrived on scene. Upon arrival,  
3 CHP officers conducted interviews of the witnesses. One of the witnesses stated that Respondent  
4 had offered him \$100 if he could take Respondent home, but the witness declined. The CPD  
5 officer had Respondent exit his patrol car. As Respondent exited, he almost fell over and had to  
6 prop himself up against the vehicle. One of the CHP officers conducted an intoxication  
7 evaluation of Respondent and noted that Respondent had an odor of an alcoholic beverage on his  
8 breath, his eyes were red and watery, and his speech was slow and slurred. Respondent admitted  
9 to the officer that he was "too drunk to drive" and had consumed 8 Heinekens (beer).

## 10 **SECOND CAUSE FOR DISCIPLINE**

### 11 **(Use of Alcoholic Beverages to an Extent or in a Manner**

#### 12 **Dangerous or Injurious to Oneself and the Public)**

13 10. Respondent is subject to disciplinary action pursuant to Code section 2761,  
14 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
15 subdivision (b), in that on or about March 27, 2011, Respondent used alcoholic beverages to an  
16 extent or in a manner dangerous or injurious to himself and the public, as set forth in paragraph 9  
17 above.

## 18 **THIRD CAUSE FOR DISCIPLINE**

### 19 **(Conviction Related to the Consumption of Alcoholic Beverages)**

20 11. Respondent is subject to disciplinary action pursuant to Code section 2761,  
21 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
22 subdivision (c), in that on or about October 11, 2011, Respondent was convicted of a criminal  
23 offense involving the consumption of alcoholic beverages, as set forth in paragraph 9 above.

## 24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
26 and that following the hearing, the Board of Registered Nursing issue a decision:

27 1. Revoking or suspending Registered Nurse License Number 654390, issued to  
28 Michael Dang, also known as Tri Minh Dang;

1           2.    Revoking or suspending Public Health Nurse Certificate Number 68732, issued to  
2 Michael Dang, also known as Tri Minh Dang;

3           3.    Ordering Michael Dang, also known as Tri Minh Dang, to pay the Board of  
4 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
5 pursuant to Business and Professions Code section 125.3;

6           4.    Taking such other and further action as deemed necessary and proper.

7  
8 DATED:

*July 13, 2012*

*for Louise Bailey*

LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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